IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1873 OF 2005

Jaysing Bapu Gole ...Petitioner

Versus

Balaram Bhiva Talekar & Ors. ...Respondents

.....

Mr. Dilip Bodake, counsel for Petitioner

Mr. S.M. Kamble, counsel for Respondent No.3.

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CORAM: B. H. MARLAPALLE, J.

DATED: 28TH APRIL, 2005

P. C.:-

1. Heard Mr. Bodake, the learned counsel for the petitioner.

2. In Regular Civil Suit No. 30 of 1994, an application came to be filed for the first time on 19.1.2005 and registered as Exh.91 for amendment of the written statement which was filed originally on 16.9.1994. The trial court rejected the said application by the impugned order dated 7.2.2005. In addition, to the belated application filed for amendment, the trial court noted that the plaintiff in collusion with the defendants had filed pursis at Exh.87 and thereafter, filed an application at Exh.89 to delete his name. The trial court, therefore,

noted that the defendants in collusion with the plaintiff No.2 were filing applications to delay the trial of the suit. In para 6 of the original written statement it was stated by the defendants that the suit house was constructed about 45 years back by their forefathers. As against this by the proposed amendment, it was contended that the suit house was built by the grand father of the defendants from his own funds. The amendment was found to be irrelevant to decide the main controversy between the parties and therefore, the application has been rejected.

3. The reasoning given by the trial court cannot be termed as perverse of manifestly erroneous so as to call for any interference under Article 227 of the Constitution.

4. Hence, the writ petition is rejected summarily.

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